

(d) Any position receiving a position sensitivity designation at the non-critical-sensitive level shall automatically carry with that designation, without further agency action, a risk designation under 5 CFR 731.106 at the moderate level, unless the agency determines that the position should be designated at the high level. Agencies shall designate the position at the high level where warranted on the basis of criteria set forth in OPM issuances as described in § 731.102(c) of this title.

§ 1400.202 Waivers and exceptions to preappointment investigative requirements.

(a) *Waivers*—(1) *General*. A waiver of the preappointment investigative requirement contained in section 3(b) of Executive Order 10450 for employment in a national security position may be made only for a limited period:

(i) In case of emergency if the head of the department or agency concerned finds that such action is necessary in the national interest; and

(ii) When such finding is made a part of the records of the department or agency.

(2) *Specific waiver requirements*. (i) The preappointment investigative requirement may not be waived for appointment to positions designated Special-Sensitive under this part.

(ii) For positions designated Critical-Sensitive under this part, the records of the department or agency required by paragraph (a)(1) of this section must document the decision as follows:

(A) The nature of the emergency which necessitates an appointment prior to completion of the investigation and adjudication process;

(B) A record demonstrating the successful initiation of the required investigation based on a completed questionnaire; and

(C) A record of the Federal Bureau of Investigation fingerprint check portion of the required investigation supporting a preappointment waiver.

(iii) When a waiver for a position designated Noncritical-Sensitive is granted under this part, the agency head will determine documentary requirements needed to support the waiver decision. In these cases, the agency must favorably evaluate the completed ques-

tionnaire and expedite the submission of the request for an investigation at the appropriate level.

(iv) When waiving the preappointment investigation requirements, the applicant must be notified that the preappointment decision was made based on limited information, and that the ultimate appointment decision depends upon favorable completion and adjudication of the full investigative results.

(b) *Exceptions to investigative requirements*. Pursuant to section 3(a) of E.O. 10450, upon request of an agency head, the Office of Personnel Management may, in its discretion, authorize such less investigation as may meet the requirement of national security with respect to:

(1) Positions that are intermittent, seasonal, per diem, or temporary, not to exceed an aggregate of 180 days in either a single continuous appointment or series of appointments; or

(2) Positions filled by aliens employed outside the United States.

(c) *Applicability*. This section does not apply to:

(1) Investigations, waivers of investigative requirements, and exceptions from investigative requirements under 42 U.S.C. 2165(b);

(2) Investigative requirements for eligibility for access to classified information under Executive Order 12968; or

(3) Standards for temporary eligibility for access to classified information established by the Security Executive Agent pursuant to section 3.3(a)(2) of Executive Order 12968.

§ 1400.203 Periodic reinvestigation requirements.

(a) The incumbent of a national security position requiring eligibility for access to classified information is subject to the reinvestigation requirements of E.O. 12968.

(b) The incumbent of a national security position that does not require eligibility for access to classified information is subject to periodic reinvestigation at least once every five years. Such reinvestigation must be conducted using a national security questionnaire, and at a frequency and scope